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Economic Affairs Interim Committee

67th Montana Legislature

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FONG HOM, Secretary

July 14, 2022

TO: Economic Affairs Interim Committee
FROM: Jameson Walker, Staff Attorney
RE: Administrative Rulemaking and Rule Review, July 2022

The Economic Affairs Interim Committee (Committee) is required to review administrative rules promulgated by the Department of Agriculture, Department of Commerce, Department of Labor and Industry, Department of Livestock, State Auditor's Office, Division of Banking & Financial Institutions, Governor's Office of Economic Development, and Department of Revenue, Liquor Control Division for compliance with the Montana Administrative Procedure Act (MAPA). The following notices are filed with the Secretary of State's Office for publication in the Montana Administrative Register (MAR). Notices are available at <http://www.mtrules.org> (search by notice number).

PROPOSAL NOTICES

Department of Agriculture and administratively attached entities

MAR Notice Number: 4-22-275

Subject: Amendment and repeal of rules pertaining hemp.

Summary: The department proposes to amend 4.6.601 and 4.12.1031. The department is proposing to reduce the minimum number of committee members for the Montana Hemp Advisory Committee. The department states that the department is projected to save \$200 per meeting. The department is proposing to amend 4.12.1031 to remove hemp from the commodity dealer law. The department states that the hemp marketplace has not matured to a point where businesses can reasonably comply with the law. The department states that hemp may be added to the list of other regulated commodities again in the future if need be. The department proposes to repeal 4.19.201. The department states that the rule has expired and is no longer necessary.

Notes/Hearing: The department will hold a public hearing on July 14, 2022, to consider the notice.

Department of Commerce and administratively attached entities

There are no new rules.

Department of Labor and Industry and administratively attached entities

MAR Notice Number: 24-22-394

Subject: Repeal of rules relating to the Montana Employment Advancement Right Now (EARN) Program Act.

Summary: The department proposes to repeal 24.22.501, 24.22.504, 24.22.507, 24.22.510, 24.22.513, 24.22.516, 24.22.519, and 24.22.522. The department states that House Bill 631 repealed the EARN act and the rules are no longer necessary.

Notes/Hearing: The held a public hearing on July 6, 2022, to consider the notice.

MAR Notice Number: 24-101-395

Subject: Amendment and adoption of rules relating to organizational, procedural, and public participation rules and various boards.

Summary: The department proposes to amend 24.7.101, 24.9.101, 24.26.201, 24.114.201, 24.114.202, 24.118.101, 24.118.201, 24.121.102, 24.121.201, 24.126.101, 24.126.201, 24.126.202, 24.129.101, 24.129.201, 24.129.202, 24.141.101, 24.141.201, 24.141.202, 24.156.202, 24.159.101, 24.159.201, 24.159.202, 24.162.101, 24.162.201, 24.162.202, 24.168.101, 24.168.201, 24.168.202, 24.177.101, 24.177.201, 24.177.202, 24.182.101, 24.182.202, 24.201.201, 24.201.202, 24.210.101, 24.210.201, 24.210.202, 24.213.101, 24.213.201, 24.213.202, 24.219.201, 24.219.204, 24.225.101, 24.225.201, and 24.225.202. The department proposes to adopt NEW RULES I, II, and III. The department provided a general statement of reasonable necessity:

In 2001, the Montana Legislature transferred professional and occupational licensing functions from the Department of Commerce (DOC) to the Department of Labor and Industry (department) via Senate Bill 445. With the transfer, the professional and occupational licensing boards and programs became allocated to the department for administrative purposes. Because the department had not previously promulgated public participation rules, and to maintain procedural continuity and afford licensees, license applicants, and the public the right of public participation per 2-3-103, MCA, all references to DOC's citizen participation rules remained in place in the boards' administrative rules. Following the transfer to the department, the professional and occupational licensing boards and programs have continuously operated so as to permit and encourage the public to participate in agency decisions that are of significant interest to the public.

The department proposed to adopt three new rules regarding public participation to fully comply with the requirements of 2-3-103, MCA, and meet the needs of the department, its customers, and the Montana public. MAR Notice No. 24-2-390 was published April 29, 2022, and public comments were accepted through May 27, 2022. The department intends to file the final notice in this project on May 31, 2022, adopting the three rules exactly as proposed. These new rules will be effective June 11, 2022.

The department determined it is reasonably necessary to combine the boards' related rule amendments into two rulemaking notices for timeliness, efficiency, and cost effectiveness. Implementing the rules simultaneously for as many boards as possible will reduce confusion regarding the rulemaking process and ensure that most boards operate under the same public participation rules at the same time. Therefore, 20 of the boards administratively attached to the department are amending their rules to incorporate and align with the department's new public participation rules at this time. Where necessary, authority and implementation citations are amended to accurately reflect all statutes implemented through a rule and provide the complete sources of a board's rulemaking

authority. Where additional specific bases for a proposed action exist, the individual board will identify those reasons immediately following that rule.

Notes/Hearing: The held a public hearing on July 7, 2022, to consider the notice.

MAR Notice Number: 24-156-93

Subject: Adoption, amendment, and repeal of rules pertaining to the Board of Medical Examiners.

Summary: The board proposes to amend 24.156.401, 24.156.409, 24.156.1306, 24.156.1403, and 24.156.2701. The board proposes to adopt NEW RULES I through V. The board proposes to repeal 24.156.501, 24.156.603, 24.156.619, 24.156.625, 24.156.629, 24.156.802, 24.156.1001, 24.156.1005, 24.156.1006, 24.156.1007, 24.156.1301, 24.156.1303, 24.156.1304, 24.156.1307, 24.156.1308, 24.156.1309, 24.156.1401, 24.156.1404, 24.156.1407, 24.156.1412, 24.156.1413, 24.156.1601, 24.156.1617, 24.156.1625, 24.156.1626, 24.156.2705, 24.156.2707, 24.156.2713, and 24.156.2775. Generally, the rule notice will establish fees, correct outdated references, update references. The rule notice will also implement Senate Bill 121 (2021). The proposed new rules are as follows:

New Rule I	Management of Infectious Wastes
New Rule II	Application for Licensure
New Rule III	Unprofessional Conduct
New Rule IV	Definitions and Abbreviations
New Rule V	Point Injection Education and Training

The department states that the new rules are necessary to consolidate existing rules. The department states that the rule repeals are necessary to avoid duplication.

Notes/Hearing: The held a public hearing on July 5, 2022, to consider the notice.

MAR Notice Number: 24-28-396

Subject: Adoption and repeal of rules pertaining to workers' compensation mediation.

Summary: The department proposes to adopt New Rules I through III. The department proposes to repeal 24.28.101, 24.28.102, 24.28.103, 24.28.104, 24.28.105, 24.28.106, 24.28.107, 24.28.108, 24.28.110, 24.28.111, and 24.28.112. The proposed rules are New Rule I (Requests for Mediation), New Rule II (Parties), and New Rule III (Mediation Process). Generally, the department states that the repeal of the existing rules and adoption of the three new rules is keeping with efforts to review administrative rules on a periodic basis. The department states that the rule notice furthers the Governor's Red Tape Relief Initiative by eliminating rules that are duplicative with statutes.

Notes/Hearing: The department will hold a public hearing on July 19, 2022, to consider the notice.

Department of Livestock and administratively attached entities

MAR Notice Number: 33-22-329

Subject: Amendment of rules pertaining to diagnostic laboratory fees.

Summary: The department proposes to amend 32.2.403 to increase certain diagnostic laboratory fees. The department is proposing adjustments to its laboratory fees for the purpose of helping to cover the increased cost of testing supplies, consumables, and other services related to conducting services. The proposed changes also include the addition of testing services not previously offered by the Montana Veterinary Diagnostic Lab.

Notes/Hearing: The department does not anticipate the need to hold a public hearing.

State Auditor's Office

MAR Notice Number: 6-269

Subject: Adoption and amendment of rules relating to term and universal life insurance reserve financing.

Summary: The department proposes to adopt the following rules:

New Rule I	Purpose and Intent
New Rule II	Applicability
New Rule III	Exemptions
New Rule IV	Definitions
New Rule V	The Actuarial Method
New Rule VI	Requirements Applicable to Covered Policies to Obtain Credit for Reinsurance; Opportunity for Remediation
New Rule VII	Prohibition Against Avoidance
New Rule VIII	Severability

The department states that the rule notice is necessary to implement House Bill 80 (2021), which amended statutes relating to credit for reinsurance. These amendments were based off the National Association of Insurance Commissioners' model laws and the rule proposal seeks to implement model regulations.

Notes/Hearing: The department does not anticipate the need to hold a public hearing.

Division of Banking & Financial Institutions

MAR Notice Number: 2-59-627

Subject: Amendment of rules pertaining to semiannual assessments and supervisory fees for banks and credit unions.

Summary: The department proposes to amend 2.59.104 and 2.59.401 to waive certain credit union assessments. The department states that the funds in its account will be sufficient with the fee waiver.

Notes/Hearing: The department does not anticipate the need to hold a public hearing.

MAR Notice Number: 2-59-626

Subject: Amendment of rules pertaining to renewal fees of mortgage brokers, mortgage lenders, mortgage servicers, and mortgage loan originators.

Summary: The department proposes to amend 2.59.1738. The department is eliminating certain mortgage fees because the program is currently generating more revenue than its expenditures. The department states that the number of mortgage loan originators has grown dramatically and increased by 21% from 2019 to 2020 and 58% from 2020 to 2021.

Notes/Hearing: The department does not anticipate the need to hold a public hearing.

Department of Revenue, Liquor Control Division and Cannabis Control Division

MAR Notice Number: 42-1053

Subject: Amendment and repeal of rules pertaining to Montana marijuana regulation.

Summary: The department proposes to amend 42.2.613, 42.2.614, 42.2.615, 42.2.616, 42.39.102, 42.39.112, 42.39.115, 42.39.118, 42.39.123, 42.39.203, 42.39.413, 42.39.502, 42.39.505. The

department proposes to repeal 42.39.109, 42.39.110, and 42.39.120. Generally, the department states that rule notice makes housekeeping changes to existing rules. Specifically, the Montana Marijuana Regulation and Taxation Act amended statutes relating to medical marijuana.

Notes/Hearing: The department will hold a public hearing on July 18, 2022, to consider the notice.

Governor's Office of Economic Development

There are no new rules.